

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ELSEVIER INC., BEDFORD, FREEMAN & WORTH  
PUBLISHING GROUP, LLC d/b/a MACMILLAN  
LEARNING, CENGAGE LEARNING, INC.,  
MCGRAW HILL LLC, and PEARSON EDUCATION,  
INC.,

Plaintiffs,

v.

DOES 1 - 86 d/b/a 7YEC.COM,  
ALIBABADOWNLOAD.COM,  
APLUSTBSM.BLOGSPOT.COM, BOOSTGRADE.INFO,  
BUDDIEZ4U.MYSHOPIFY.COM, BUY-SOLUTIONS-  
MANUAL.COM, BUYTESTBANKONLINE.COM,  
CANADIANTESTBANKSOLUTIONS.BLOGSPOT.COM,  
COLLEGESTUDENTTEXTBOOK.ORG,  
CYBERTESTBANK.COM, DIGITALTESTBANKS.COM,  
DIGTEXT.COM, EBOOKAS.COM,  
EBOOKENTRY.COM, ETESTBANKS.COM,  
FINDTESTBANKS.COM, HOMETESTBANKS.COM,  
HWPREMIUM.COM, INSTRUCTORACCESS.COM,  
MAXIZZY.MYSHOPIFY.COM,  
NURSINGSTUDENTSHELP.COM, NURSINGTB.COM,  
NURSINGTESTBANK.INFO,  
NURSINGTESTBANK0.INFO,  
NURSINGTESTBANKS.CO,  
NURSINGTESTBANKTANK.COM,  
REALNURSINGTESTBANK.COM,  
RHYIBLE.MYSHOPIFY.COM,  
SOLUTIONSMANUAL888.WORDPRESS.COM,  
SOLUTIONTESTBANK.COM,  
SOLUTIONTESTBANK.NET, STUDENT-  
SAVER.BLOGSPOT.COM, STUDENTPUSH.COM,  
STUDENTS-EXAMS.COM, SWEETGRADES.COM, TB-  
BOOK.COM, TBMIRATE.COM, TEST-BANK-  
SOLUTION.BLOGSPOT.COM, TESTBANK.CC,  
TESTBANK.CO.COM, TESTBANK.SOLUTIONS,  
TESTBANK101.COM, TESTBANK2020.COM,  
TESTBANKAIR.COM,  
TESTBANKANDSOLUTIONS.BLOGSPOT.COM,  
TESTBANKAREA.COM, TESTBANKBASE.COM,

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TESTBANKBYTE.COM, TESTBANKCLASSES.COM,  
TESTBANKCLICK.COM, TESTBANKDATA.COM,  
TESTBANKDB.COM, TESTBANKDEALS.COM,  
TESTBANKDOC.COM, TESTBANKFILES.COM,  
TESTBANKFIRE.COM, TESTBANKGRADE.COM,  
TESTBANKGROUP.COM, TESTBANKHOST.COM,  
TESTBANKHUT.COM, TESTBANKINC.COM,  
TESTBANKKING.COM, TESTBANKLAB.COM,  
TESTBANKLIB.COM, TESTBANKMANUALS.COM,  
TESTBANKNSOLUTIONS.COM,  
TESTBANKPAPER.COM, TESTBANKPASS.COM,  
TESTBANKPLANET.COM,  
TESTBANKQUESTIONS.COM,  
TESTBANKREAL.COM, TESTBANKS-  
SOLUTIONMANUAL.COM, TESTBANKS.NET,  
TESTBANKSHOP.NET,  
TESTBANKSLIST.WORDPRESS.COM,  
TESTBANKSOLUTION01.COM,  
TESTBANKSOLUTIONMANUAL.COM,  
TESTBANKSTER.COM, TESTBANKTEAM.COM,  
TESTBANKTOP.COM, TESTBANKTREE.COM,  
TESTBANKWORLD.ORG, TESTBANKY.COM,  
TESTMANGO.COM, TEXTBOOKSOLUTIONS.CC, and  
UNIVERSALSTUDYGUIDES.COM,

Defendants.

**DECLARATION OF DAN SEYMOUR**

I, **DAN SEYMOUR**, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am employed by Oppenheim + Zembrak, LLP (“O+Z”), which represents Plaintiffs Elsevier Inc. (“Elsevier”), Bedford, Freeman & Worth Publishing Group, LLC d/b/a Macmillan Learning (“Macmillan Learning”), Cengage Learning, Inc. (“Cengage”), McGraw Hill LLC (“McGraw Hill”), and Pearson Education, Inc. (“Pearson”) (collectively, “Plaintiffs”) in this action.

2. I submit this declaration in support of Plaintiffs’ *Ex Parte* Application for a Temporary Restraining Order, Order to Show Cause Why a Preliminary Injunction Should Not Issue, Order Authorizing Expedited Discovery, and Order Authorizing Alternate Service in the

above-captioned case (the “Application”). I have knowledge of the facts stated herein based on personal knowledge and my review of the documents, files, websites, and other items referenced herein. If called upon to do so, I am able to testify competently to the matters as stated herein.

3. I have worked for O+Z since October 2016. My responsibilities at O+Z focus on investigation and enforcement relating to counterfeiting and online piracy matters for O+Z clients. I have been involved in anti-piracy matters for over twenty years. Prior to joining O+Z, I was Director of Anti-Piracy for CoStar Group, an online commercial real estate database firm. Before CoStar, I was Senior Manager, Anti-Piracy Internet Enforcement, for the Entertainment Software Association (“ESA”), the trade group for the video games industry. Prior to the ESA, I was Senior Internet Investigations Manager for the Motion Picture Association of America (“MPAA”), the trade group for the major Hollywood movie studios. Prior to the MPAA, I was a Managing Director at CoreFacts and Decision Strategies/Fairfax International.

#### **DEFENDANTS’ PIRACY AND THE INFRINGING SITES**

4. Defendants own, control, and/or operate a group of websites (the “Infringing Sites” or “Sites”), and likely others, through which they engage in and profit from the sale of unauthorized electronic copies of Plaintiffs’ works. As described in more detail below, in addition to monitoring the Infringing Sites, I, along with members of my team, collected evidence on behalf of Plaintiffs of Defendants’ infringing sales of copies of Plaintiffs’ test banks, instructor solutions manuals (“ISMs”), and/or textbooks from the Sites, as well as certain Defendants’ infringing use of copies of Plaintiffs’ trademarks on or in connection with the Sites.

5. The following is a list of Defendants’ Infringing Sites known to Plaintiffs at this time: 7yec.com, alibabadownload.com, aplusbsm.blogspot.com, boostgrade.info, buddiez4u.myshopify.com, buy-solutions-manual.com, buytestbankfor.com,

buytestbankonline.com, buy-testbanks.com, canadiantestbanksolutions.blogspot.com,  
 collegestudenttextbook.org, cybertestbank.com, digitaltestbanks.com, digtext.com, ebookas.com,  
 ebookentry.com, etestbanks.com, exambanksolutions.com, findtestbanks.com,  
 hometestbanks.com, hwpremium.com, instructoraccess.com, maxizzy.myshopify.com,  
 nursingstudentshelp.com, nursingtb.com, nursingtestbank.info, nursingtestbank0.info,  
 nursingtestbanks.co, nursingtestbanktank.com, realnursingtestbank.com, rhyible.myshopify.com,  
 smtbstore.com, solutionmanuals2019.blogspot.com, solutionsmanual888.wordpress.com,  
 solutiontestbank.com, solutiontestbank.net, student-saver.blogspot.com, studentpush.com,  
 students-exams.com, sweetgrades.com, tb-book.com, tbmirate.com, test-bank-  
 solution.blogspot.com, testbank.cc, testbank.co.com, testbank.solutions, testbank101.com,  
 testbank2020.com, testbankair.com, testbankandsolutions.blogspot.com, testbankarea.com,  
 testbankbase.com, testbankbyte.com, testbankclasses.com, testbankclick.com, testbankdata.com,  
 testbankdb.com, testbankdeals.com, testbankdoc.com, testbankfiles.com, testbankfire.com,  
 testbankgrade.com, testbankgroup.com, testbankhost.com, testbankhut.com, testbankinc.com,  
 testbankking.com, testbanklab.com, testbanklib.com, testbankmanuals.com,  
 testbanknsolutions.com, testbankpaper.com, testbankpass.com, testbankplanet.com,  
 testbankquestions.com, testbankreal.com, testbanks-solutionmanual.com, testbanks.net,  
 testbankshop.net, testbankslist.wordpress.com, testbanksolution01.com,  
 testbanksolutionmanual.com, testbankster.com, testbankteam.com, testbanktop.com,  
 testbanktree.com, testbankworld.org, testbanky.com, testmango.com, textbooksolutions.cc,  
 thetestbanksolutions.com, and universalstudyguides.com.

6. The Infringing Sites are highly interactive and continuously accessible to New York consumers. Purchasers or prospective purchasers can interact with the Sites, including to

communicate with Defendants and complete their transactions. On the Infringing Sites, purchasers or prospective purchasers can often scroll through or search for listings of the unauthorized digital copies of Plaintiffs' works that Defendants have made and sell. Purchasers or prospective purchasers can typically view information on their catalogue of items to buy, which are sometimes massive, interact with Sites, and then move forward with the transaction. Specifically, for some Sites, visitors can search by keyword, title, author, and/or International Standard Book Number ("ISBN"). Alternatively, for other Sites, visitors can browse titles by subject matter or send a request form to Defendants to request the particular title they wish to buy. At the touch of a few keystrokes and armed with a credit card or other means of online payment, such as a PayPal account, a visitor can purchase and download unauthorized copies of Plaintiffs' works.

7. In addition, the Sites typically have listings, product pages, or similar advertisements ("product pages") for the ISMs, test banks, and/or textbooks that they sell. On some of these product pages, certain Defendants display unauthorized copies of Plaintiffs' registered trademarks. This occurs, for instance, on a cover image of the test bank or ISM, a cover image of the corresponding textbook, or in the marketing material or description of the item. These product pages are also where some Defendants provide free copies of sample chapters of test banks and/or ISMs that are available, in full form, for purchase on their Sites.

8. Defendants reproduce Plaintiffs' works without authorization and then store the infringing digital copies on computers or servers Defendants own or control. In some cases, this is accomplished through the use of third-party cloud storage providers, such as Google Drive. Most Defendants' Sites advertise that they deliver digital copies of the infringing test banks, ISMs, and/or textbooks instantly and/or that the files delivered are compatible with any e-reader, tablet, or similar device. Thus, shortly, if not immediately, after Defendants receive payment, Defendants

send an email or other confirmation from which the purchaser can download the pirated test banks, ISMs, and/or textbooks, or provide download links directly on the site.

9. The illicit inventories of most Infringing Sites are substantial. Indeed, some Infringing Sites contain or provide access to hundreds or thousands of unauthorized digital copies of Plaintiffs' and other publishers' works.

10. Based on my experience with Defendants' Sites and other websites, such websites typically receive a significant number of visitors from consumers and prospective consumers located throughout the United States, including in New York.

11. Some of the Infringing Sites appear to be related to each other and/or operated by the same individual or group of individuals. While pirates often use inaccurate or fictitious contact information to register and operate their websites, certain of the Sites list identical or nearly identical contact information—be it fictitious or not—and/or include identical or nearly identical content. Some of the Infringing Sites are clearly related to each other and/or operated by the same individual or group of individuals such as [buytestbankfor.com](http://buytestbankfor.com), which forwards automatically to [buytestbankonline.com](http://buytestbankonline.com); [exambanksolutions.com](http://exambanksolutions.com) and [thetestbanksolutions.com](http://thetestbanksolutions.com), which redirect the customer to [testbanksolutions.com](http://testbanksolutions.com) for the purchase; and [buy-testbanks.com](http://buy-testbanks.com), which has the same reference to Student Saver Team in the site banner and uses the same email as [student-saver.blogspot.com](http://student-saver.blogspot.com).

12. While online pirates such as Defendants are notorious for, and adept at, hiding their identities and locations, including switching intermediaries to avoid being shut down, Defendants currently utilize the services of a number of intermediaries, including those in the United States, in connection with their infringing activities. In particular, certain Defendants obtain domain name registration services from companies such as GoDaddy and NameCheap; web hosting services

from companies such as DigitalOcean, Google, and Shopify; proxy services from Cloudflare; cloud storage services from companies such as Google; and online advertising services from companies such as Google and Microsoft. Further, Defendants typically use payment processors, such as PayPal and Stripe, to process payments for the infringing test banks, ISMs, and/or textbooks. While Defendants' true locations may not be known, Defendants regularly use email for purposes of operating their online businesses. Most of the Infringing Sites include an email address on the Site so that customers or prospective customers can contact Defendants. In other cases, customers or prospective customers can obtain an email address from the domain name registration record. In addition, Defendants typically use the same or additional email addresses for purposes of receiving payment via the payment processors that they use to deliver the infringing test banks, ISMs, and/or textbooks. A list of the intermediaries used by Defendants, which is not exhaustive, is attached as **Exhibit 1** to my declaration. In addition, **Exhibit 2** contains a list of the email addresses my team and I identified as a result of our purchases from and interactions with the Infringing Sites.

#### **PURCHASES FROM DEFENDANTS' INFRINGING SITES**

13. After we made purchases of test banks, ISMs, and/or textbooks from the Infringing Sites, including certain purchases that occurred in New York, we followed the Site's instructions for downloading the files. The Plaintiffs reviewed the files for their works and confirmed that each file contained an unauthorized copy of one of their test banks, ISMs, and/or textbooks. We also followed the Site's instructions for downloading free samples of Plaintiffs' test banks and/or ISMs. Through purchases and downloads from Defendants, including for Plaintiffs' Authentic Works on Exhibit A to the Complaint, Plaintiffs have confirmed that, just as Defendants advertise, they distribute unauthorized electronic copies of Plaintiffs' test banks, ISMs, and/or textbooks.

14. For each purchase, we collected evidence at each stage of the transaction, such as including screenshots of the relevant product, payment detail, and purchase confirmation pages, as well as any emails received from the relevant Infringing Sites. Attached as **Exhibit 3** are copies of the purchase records related to purchases from the Infringing Site solutiontextbank.com. To avoid unnecessarily burdening the Court, I have not attached the purchase records associated with all of the infringing test banks, ISMs, and/or textbooks. However, all such records are available for review at the Court's or any party's request.

15. Similarly, we made and preserved copies of the product pages that display the unauthorized reproductions of Plaintiffs' trademarks, including those set forth on Exhibit B to the Complaint. Attached as **Exhibit 4** are copies of example product pages from the Infringing Sites collegestudenttextbook.org, digtext.com, rhyible.myshopify.com, and nursingtestbanktank.com.

### **EVIDENCE OF DEFENDANTS' WILLFULNESS**

16. Defendants hide behind the anonymity of the internet and the Infringing Sites. None of the Sites themselves reveal the true names (and most contain no name) of who is operating the Site. Consumers and prospective consumers are given generic email addresses as contacts. Some of the Infringing Sites identify physical addresses that are either fictitious or do not appear to identify the operator's actual physical location. Based on Plaintiffs' experiences in similar cases involving digital piracy, it is likely that many of the Defendants are located in foreign countries. Some Defendants also use a proxy service for domain name registration or website hosting services and/or provide false information to the domain name registrars.

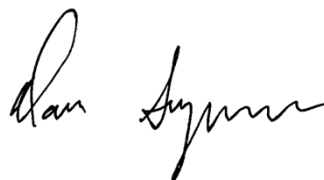
17. As a result of Defendants' actions, wholesale, unauthorized copies of Plaintiffs' test banks, ISMs, and/or textbooks are distributed with no way to prevent their viral downstream dissemination, and thus protect against further infringement of Plaintiffs' works. Some



Defendants advertise this fact as an enticement to purchasers. Defendants also typically continue to expand their illegal business, including by adding “new arrivals” to the Infringing Sites.

18. Defendants also often operate their infringing businesses at multiple and ever-changing domains. Based on my experience, these same Defendants are likely operating even more websites through which they are selling unauthorized digital copies of Plaintiffs’ works, which Plaintiffs have not yet discovered.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Dan Seymour". The signature is fluid and cursive, with the first name "Dan" and last name "Seymour" clearly distinguishable.

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Dan Seymour

Executed on October 9, 2020